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**REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed March 17, 2002. Prior to entry of this response, Claims 1-23 remained pending in the present application. Through this response, claims 6, 10 and 23 have been canceled without prejudice, waiver, or disclaimer, leaving claims 1-5, 7-9 and 11-22 remaining in the case. Of these, claims 1-3, 5, 7-9, 13-15 and 19-22 have been directly amended with this response. It is believed that the foregoing amendments present no new matter to the instant application. Reconsideration and allowance of the presently pending claims is respectfully requested. Each objection and rejection presented in the Office Action is discussed in the remarks that follow.

**A. Drawings Objections**

The drawings have been objected to because “in Figure 1, one occurrence of the reference numeral ‘22’ should be - - 21 - -,” and “reference characters ‘24’ and ‘17’ have both been used to designate ‘bare leg’ in Figure 1.”

In response to these objections, the drawings have been amended. A marked-up copy of the originally filed drawings is included with the present response which shows these changes in red ink. It is asserted that no new matter has been added. Formal drawings will be submitted upon receipt of the Notice of Allowability, should such notice issue.

**B. Claim Objections**

Claim 8 has been objected to because "on line 3, 'the' should be - - a - -." Claim 8 has been amended to rectify this objection.

Claim 13 has been objected to under 37 C.F.R. 1.75(c), for failing to further limit the subject matter of a previous claim. Claim 13 has been amended to further limit the scope of claim 9, from which it depends.

Claim 14 has been objected to because the Examiner provides "on line 5, 'legs' should be - legs - -." Although claim 14 was not amended as specifically suggested, Applicant has amended claim 14 to rectify the objection.

**C. Claim Rejections - 35 U.S.C. § 112, Second Paragraph**

Claims 1-8, 13, 20, 22 and 23 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Applicant has either amended these claims in accordance with the Examiner's instructions or the claims have been cancelled.

In addition to the above noted amendments, various other changes have been made to the claims to provide an accurate and precise description of Applicant's originally disclosed invention.

In view of the above noted amendments to the claims, it is respectfully asserted that claims 1-5, 7, 8, 13, 20 and 22 currently define the invention in the manner required by 35 U.S.C. § 112. Accordingly, it is respectfully requested that the rejections to these claims be withdrawn.

**D. Claim Rejections - 35 U.S.C. § 102(b)**

Claims 1, 2, 7, 9 and 12-14 have been rejected under 35 U.S.C. § 102(b) as being anticipated by *Peirce, Jr.* (U.S. Pat. No. 3,858,849, hereinafter *Peirce*).

**1. Claims 1, 2 and 7**

The rejection states that “[w]ith regard to claim[s] 1 . . . *Peirce* discloses a rigid wire caddy.” Applicant respectfully traverses this rejection.

**a. Applicant’s Claimed Invention**

As provided in claim 1, as amended, Applicant claims:

1. A support attachment for mounting work implements on a ladder, the ladder including a pair of upwardly extending substantially parallel side rails spaced from each other and steps extending horizontally between said side rails to enable a person to climb the ladder, said side rails having opposed front and rear surfaces, said support attachment comprising:
  - a pair of parallel spacer arms for extending across and resting on the step of the ladder;
  - a side rail engaging means extending from said pair of parallel spacer arms for engaging the rear surface of the side rails of the ladder above the step engaged by said step engaging means;
  - a support structure for supporting work implements, said support structure extending from said pair of parallel spacer arms for supporting said support structure at the front surfaces of said side rails of the ladder;
  - and

*wherein said side rail engaging means and said support structure are rigidly connected to said pair of parallel spacer arms.* (Emphasis added).

**b. Discussion of the Rejection**

It is axiomatic that “[a]nticipation requires the disclosure in a single prior art reference of *each element* of the claim under consideration.” *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983)(emphasis added). Therefore, every

claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(b).

Assuming *arguendo* that *Peirce* discloses a wire caddy having those structural elements alleged by the Examiner, *Peirce* still fails to anticipate independent claim 1 for at least the reason that *Peirce* does not disclose, teach or suggest that those structural elements are *rigidly* connected. As noted above, independent claim 1 teaches that “said side rail engaging means and said support structure are rigidly connected to said step engaging means.” The rigid construction allows the various elements of the present invention to cooperate such that the wire caddy can be removably mounted on a ladder. Contrarily, *Peirce* teaches not only that the structural elements are rotatable relative to each other, but also that they are separable. Both of these factors, either alone or in combination, render the invention of *Peirce* incapable of being mounted to a ladder. “The T fitting 10 at the bottom of the U-shaped support is snugly but rotatably mounted on the upper end of a cylindrical, upstanding post 19 . . . [t]he lower end of post 19 has a snug but rotatable fit in a T fitting 21 in this support base.” Column 2, lines 38 – 44. The construction as taught by *Peirce* means that even if the device could be mounted to a ladder, the device would not remain mounted thereto in that the U-shaped support freely rotates about the post and the post would separate from the support base.

Moreover, it cannot be said that it would merely be a design choice to rigidly connect the elements of the invention in *Peirce*. Both the rotatable nature of the U-shaped support and removable post are vital to the teachings in *Peirce*. “The pivotal connections of the T fitting 10 and 21 at each end of the post 19 enable the selective angular adjustment of the cross bar 13 over a 360

range in a horizontal plane to facilitate the use of this line feeder at hard-to-reach or awkward locations.” Column 3, lines 5 – 9. As well, as shown in Figure 2, the removable post allows the U-shaped support to be directly mounted on the upper end of an upstanding conduit. See column 3, lines 13 – 20. To rigidly connect the elements of the device in *Peirce* would destroy the objectives of the invention taught therein.

The pair of parallel spacer arms rests on a step of the ladder, and since they are spaced apart from each other, they form a support on the step of the ladder that holds the wire caddy parallel to the step. *Peirce* would not function to do this.

Due to these clear shortcomings of the *Peirce* reference, Applicant respectfully asserts that *Peirce* does not anticipate independent claim 1. Therefore, Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. § 102 (b) be withdrawn. In addition, in that claims 2 and 7 depend from claim 1, and therefore include all limitations contained therein, Applicant respectfully requests the rejection of claims 2 and 7 also be withdrawn.

## **2. Claims 9 and 12-14**

The rejection states that “[r]egarding claims 9, 13 and 14, the method steps recited therein are inherent to the apparatus as applied above.”

### **a. Applicant’s Claimed Invention**

As provided in claim 9, as amended, Applicant claims:

9. A method for storing and dispensing spools of electrical wire on a wire caddy, wherein said wire caddy is comprised of a support bar

connected to a pair of parallel spacer bars, said spacer bars further connected to a base leg having two parallel legs configured at distal ends thereof and a spool support rod positioned between said parallel legs, comprising the steps of:

***positioning said wire caddy on a ladder wherein said pair of parallel spacer bars rests upon a step of said ladder;***

maintaining said wire caddy in a fixed, non-rotatable position by the engagement of said pair of parallel spacer bars on the step of the ladder;

suspending said spool support rod between said distal ends of said parallel legs;

securing said spool support rod to said distal end of each of said parallel legs with a suitable fastening means; and

mounting spools of wire onto said spool support rod such that said spools of wire project outwardly from said ladder. (Emphasis added).

#### **b. Discussion of the Rejection**

*Peirce* fails to anticipate independent claim 9 because *Peirce* fails to disclose, teach or suggest a method for using a wire caddy that includes “positioning said wire caddy on a ladder wherein said spacer bars rest upon a step of said ladder.” More specifically, as noted above in the discussion of the patentability of independent claim 1, the structure as taught in *Peirce* renders the wire caddy disclosed therein useless for conveniently “storing and dispensing spools of electrical wire” on a ladder.

Due to these clear shortcomings of the *Peirce* reference, Applicant respectfully asserts that *Peirce* does not anticipate independent claim 9. Therefore, Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. § 102 (b) be withdrawn. In addition, in that claims 12-14 depend from claim 9, and therefore include all limitations contained therein, Applicant respectfully requests the rejection of claims 9 and 12-14 also be withdrawn.

**E. Claim Rejections - 35 U.S.C. § 103(a)**

**1. Rejection of Claims 3-6 and 8**

Claims 3-6 and 8 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Peirce*. As previously noted, dependent claim 6 has been cancelled. As previously discussed, Applicant contends that independent claim 1 is not anticipated by *Peirce*. Applicant contends the same arguments put forth above with regard to the anticipation of independent claim 1 are also applicable as to claim 1 being non-obvious. Therefore, independent claim 1 is non-obvious in light of the teachings of *Peirce*. In addition, in that claims 3 – 5 and 8 depend upon independent claim 1, and therefore include all limitations contained therein, Applicant respectfully requests the rejection of claims 3 – 5 and 8 also be withdrawn.

**2. Rejection of Claims 15-23**

Claims 15-23 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Peirce*. As previously noted, dependent claim 23 has been cancelled.

**a) Applicant's Claimed Invention**

As provided in Applicant's claim 15, Applicant claims:

15. A wire caddy attachable to a ladder, comprising:
  - a U-shaped frame having a base leg and opposed parallel legs mounted to said base leg;
  - a spool support rod supported at its ends by said parallel legs;
  - a support bar extending parallel to said base leg of said U-shaped frame;
  - a pair of spacer bars rigidly interconnecting said U-shaped frame to said support bar; and*



said U-shaped frame, said support bar and said pair of spacer bars formed in a common plane,

whereby said pair of spacer bars engages the step of a ladder and said support bar is positioned on one side of the side rails of the ladder and said U-shaped frame is positioned on the other side of the side rails of the ladder, and said pair of spacer bars maintains said wire caddy in a fixed non-rotatable position on the ladder. (Emphasis added).

### **b) Discussion of the Rejection**

Similar to independent claim 1, independent claim 15 discloses “a pair of spacer bars rigidly interconnecting said U-shaped frame to said support bar.” Therefore, Applicant contends the same arguments put forth above with regard to the patentability of independent claim 1 are also applicable as to the non-obviousness of independent claim 15. Therefore, independent claim 15 is non-obvious in light of the teachings of *Peirce*. In addition, in that dependent claims 16 – 22 depend from independent claim 15, therefore include all limitations contained therein. Applicant respectfully requests the rejection of claims 16 –22 also be withdrawn.

### **3. Rejection of Claims 10 and 11**

Claims 10 and 11 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Knight et al.* (U.S. Pat. No. 4,533,091, hereinafter *Knight*) in view of *Peirce*. As previously noted, dependent claim 10 has been cancelled.

As acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office (“USPTO”) has the burden under section 103 to establish a *prima facie* case of obviousness by showing some objective teaching in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. See *In re Fine*, 837, F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Accordingly, to make a *prima*

*facie* case for obviousness, there must be some prior art teaching or established knowledge that would suggest to a person having ordinary skill in the pertinent art to fill the voids apparent in the applied reference. It is respectfully asserted that no such *prima facie* case has been made in the outstanding Office Action.

The Office Action states:

Regarding claims 10 and 11, Knight teaches positioning a wire caddy (13, 14 <sup>generally</sup>) on a ladder (11)...Peirce teaches the wire caddy and method steps for supporting wire spools as applied to claims 1-8 and 12-14 above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the assembly of Knight by providing the wire caddy of Pierce because one would have been motivated to provide a removable caddy that is easily installed as inherently taught by Peirce.

Applicant respectfully contends there is no motivation to combine the references. The Office Action states "one would have been motivated to provide a reasonable caddy that is easily installed as inherently taught by *Peirce*." There is no motivation to amend the structure as taught by *Knight* with the structure as taught by *Peirce* because *Knight* already discloses a wire caddy that is removable from the ladder. The wire caddy of *Knight* is readily attachable and removable from a ladder by use of the "set screws 17" disclosed therein. *See* column 2, lines 23 – 26. Moreover, assuming *arguendo* the two references were properly combined, the combination would still fail to render independent claim 9 obvious. As discussed earlier in regard to independent claim 9, the structure as taught by *Peirce* is wholly inadequate for mounting to a ladder in the manner claimed.

In summary, it is Applicant's position that a *prima facie* case for obviousness has not been made against Applicant's independent claim 9. In that claim 11 depends from claim 9, and

therefore incorporates all the limitations contained therein, it is respectfully submitted that claim 11 is patentable over the prior art.


**F. Canceled Claims**

As identified above, claims 6, 10 and 23 have been canceled from the application through this response without prejudice, waiver, or disclaimer. Applicant reserves the right to present these canceled claims, or variants thereof, in continuing applications to be filed subsequently.

**CONCLUSION**

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-5,7-9 and 11-22 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

  
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Docket No.: 10872-1010

**ANNOTATED VERSION OF MODIFIED CLAIMS TO SHOW CHANGES MADE**

In accordance with 37 C.F.R. §1.121, please find below the amended claims in which the inserted language is underlined (“  ”) and the deleted language is enclosed in brackets (“[ ]”):

- 1 1. (Amended) A support attachment for mounting work implements on a ladder, the ladder  
2 including a pair of upwardly extending substantially parallel side rails spaced from each other  
3 and steps extending horizontally between said side rails to enable a person to climb the ladder,  
4 said side rails having opposed front and rear surfaces, said support attachment comprising:  
5 a [step engaging means] pair of parallel spacer arms for extending across and resting on  
6 [a] the step of [a] the ladder;  
7 a side rail engaging means extending from said [step engaging means] pair of parallel  
8 spacer arms for engaging the rear surface of the side rails of [a] the ladder above the step engaged  
9 by said step engaging means; [and]  
10 a support structure for supporting work implements[;], said support structure extending  
11 from said [step engaging means] pair of parallel spacer arms for supporting said support structure  
12 at the front surfaces of said side rails of the ladder; and  
13 wherein said side rail engaging means and said support structure are rigidly connected to  
14 said pair of parallel spacer arms.

- 1 2. (Amended) The support attachment for a ladder as described in claim 1, wherein:  
2 said support structure for supporting work implements comprises a U-shaped

3 frame including parallel spaced side legs and a base leg extending between said side legs,  
4 said base leg joined to said [step engaging means] pair of parallel spacer arms, and  
5 a rectilinear spool support rod having opposed ends is releasably mounted to said side  
6 legs of said U-shaped frame;  
7 whereby spools of wire can be rotatably mounted on said spool support rod at the front of  
8 the side rails of [a] the ladder.

1 3. (Amended) The support attachment of claim 2, wherein said U-shaped frame, said [step  
2 engaging means] pair of parallel spacer arms and said side rail engaging means are of [rigid,] one  
3 piece construction.

1 5. (Amended) The support attachment of claim 4, wherein said pair of parallel spacer arms  
2 [step engaging means], said side rail engaging means and said support structure occupy a  
3 common plane.

1 7. (Amended) The support structure of claim 1, wherein said [step engaging means] pair of  
2 parallel spacer arms, said side rail engaging means and said support structure define oppositely  
3 facing c-shaped recesses which register about the side rails of [a] the step ladder.

1 8. (Amended) The support structure of claim 1, wherein said [step engaging means] pair of  
2 parallel spacer arms comprises a pair of substantially parallel spaced apart bars extending from

3 said side rail engaging means for resting at spaced intervals on [a] the step of [a] the step ladder  
4 whereby said pair of parallel spacer arms maintains said support structure in a fixed attitude with  
5 respect to the step of the ladder on which said pair of parallel spacer arms rests.

1 9. (Amended) A method for storing and dispensing spools of electrical wire on a wire  
2 caddy, wherein said wire caddy is comprised of a support bar connected to a pair of parallel  
3 spacer bars, said spacer bars further connected to a base leg having two parallel legs configured  
4 at distal ends thereof and a spool support rod positioned between said parallel legs, comprising  
5 the steps of:  
6 positioning said wire caddy on a ladder wherein said pair of parallel spacer bars rests  
7 upon a step of said ladder;  
8 maintaining said wire caddy in a fixed, non-rotatable position by the engagement of said  
9 pair of parallel spacer bars on the step of the ladder;  
10 suspending said spool support rod between said distal ends of said parallel legs;  
11 securing said spool support rod to said distal end of each of said parallel legs with a  
12 suitable fastening means; and  
13 mounting spools of wire onto said spool support rod such that said spools of wire project  
14 outwardly from said ladder.

1 11. (Amended) The method of claim 9 [10], further comprising the step of configuring said  
2 support bar, pair of spacer bars and base leg of said wire caddy so as to form oppositely facing C-  
3 shaped recesses, each for registering about a side rail of [said] the ladder, and engaging each of  
4 the oppositely facing C-shaped recesses about a side rail of the ladder.

1 13. (Amended) The method of claim 9, wherein [said spool support rod is secured to an end  
2 of each of said parallel legs by locking pins.] said securing step further includes positioning  
3 locking pins in opposing ends of said spool support rod.

1 14. (Amended) The method of claim 9, wherein said spools of wire are mounted onto said  
2 spool support rod comprising the steps of:  
3 removing one end of said spool support rod from a secured position at the distal end of [a  
4 parallel leg by] one of the parallel legs, disengaging said fastening means and sliding said spool  
5 support rod through an opening in said distal end of [said] one of said parallel legs;  
6 threading said spooled wire onto said spool support rod; and  
7 securing said spool support rod back into position between said parallel legs.

1 15. (Amended) A wire caddy attachable to a ladder, comprising:  
2 a U-shaped frame having a base leg and opposed parallel legs mounted to said base leg;  
3 a spool support rod supported at its ends by said parallel legs;  
4 a support bar extending parallel to said base leg of said U-shaped frame; [and]



5 a pair of spacer bars rigidly interconnecting said U-shaped frame to said support bar;  
6 and[.]  
7 said U-shaped frame, said support bar and said pair of spacer bars formed in a common  
8 plane,  
9 whereby said pair of spacer bars engages the step of a ladder and said support bar is  
10 positioned on one side of the side rails of the ladder and said U-shaped frame is positioned on the  
11 other side of the side rails of the ladder, and said pair of spacer bars maintains said wire caddy in  
12 a fixed, non-rotatable position on the ladder.

1 19. (Amended) The wire caddy of claim 15, wherein said spacer bars extending from the  
2 support bar to said U-shaped frame are sized and spaced from each other to rest upon a step of [a]  
3 the ladder.

1 20. (Amended) The wire caddy of claim 19, further comprising spacer bars constructed and  
2 arranged so that when said spacer bars are placed on [a] the step of [a] the ladder said spool  
3 support rod is oriented horizontally and [said] a spooled wire projects outwardly from said  
4 ladder.

1 21. (Amended) The wire caddy of claim 15, wherein each end of said support bar is  
2 constructed and arranged so that the ends of the support bar engage a rear surface of a side rail of  
3 [a] said ladder at a position directly above a step engaged by said spacer bars.

1 22. (Amended) The wire caddy of claim 15, wherein said spacer bars are intermediately  
2 positioned from each distal end of said support bar and said base leg so as to define oppositely  
3 facing c-shaped recesses for engagement about [the] a pair of side rails of [a] the ladder.

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